

Property Tax Bureau
Informational Guideline Release (IGR) No. 01-206
July 2001

EXPEDITED PROCEDURE FOR AUTHORITY TO ABATE LOCAL TAXES
ON
ABANDONED RESIDENTIAL PROPERTY

(G.L. Ch. 58 §8)

This Informational Guideline Release (IGR) explains the policies and procedures by which the Commissioner of Revenue will delegate to local assessors the authority to abate outstanding local taxes on certain abandoned residential properties in order to facilitate their rehabilitation and return to the productive tax roll.

Topical Index Key:

Abatements and Appeals

Distribution:

Assessors
Collectors
Treasurers
Accountants/Auditors
Finance Directors
Selectmen/Mayors
City/Town Managers/Exec. Secys.

EXPEDITED PROCEDURE FOR AUTHORITY TO ABATE LOCAL TAXES
ON
ABANDONED RESIDENTIAL PROPERTY

(G.L. Ch. 58 §8)

The Commissioner of Revenue may authorize assessors or other local officials to abate all or part of a particular local tax, assessment, charge or fee they assessed or imposed where they no longer have the legal power to abate. G.L. Ch. 58 §8. This authority also includes interest and collection costs that have accrued by law on an outstanding tax, assessment, charge or fee.

In addition, the Commissioner may delegate to local officials the authority to grant certain abatements of taxes, assessments, charges and fee on an expedited basis, *i.e.*, without the need to obtain his prior approval of each individual abatement. These delegations may be made for periods up to two years and apply only to abatements of outstanding taxes, assessments, charges and fees, including accrued interest and collections costs, on abandoned residential parcels containing six or fewer units. The purpose of this expedited procedure is to facilitate the rehabilitation of these properties and return them to the municipality's productive tax roll.

Before delegating abatement authority, the Commissioner must approve a municipality's plans and procedures for implementing an expedited abatement program. This guideline sets out the minimum standards for approval of local expedited abatement programs.

GUIDELINES:

A. APPLYING FOR DELEGATION OF ABATEMENT AUTHORITY

The board of assessors and the chief executive officer (the mayor, manager or board of selectmen) must submit the municipality's plans and procedures for an expedited abatement program. The plans and procedures must contain sufficient detail to demonstrate conformity with the minimum requirements of these guidelines. Additional provisions not inconsistent with these guidelines may also be contained in the municipality's plans and procedures.

Abatement program plans and procedures must be in writing and submitted to:

Property Tax Bureau
Division of Local Services
P.O. Box 9490
Boston MA 02205-9490

B. REQUIRED FEATURES OF EXPEDITED ABATEMENT PROGRAMS

1. Eligible Property

Expedited abatement programs can apply only to *primarily residential abandoned property*.

a. Definitions

- *Primarily residential* means that more than 50 percent of the assessed value of the parcel is classified as residential for property tax purposes. G.L. Ch. 59 §2A.
- *Abandoned property* is defined as property that is unused, *unoccupied* and in such deteriorated condition as to be uninhabitable without danger to life and limb. *Unoccupied* means without lawful occupants. G.L. Ch. 60 §1.

Some portion of a residential structure must exist above ground level for the parcel to be eligible under the expedited abatement program. A parcel of vacant land or that has only a foundation at or below ground level is not eligible. This means parcels on which demolition of previously existing residential structures has occurred do not qualify.

b. Certification of Eligibility

Before a municipality can grant an abatement for any parcel under an approved expedited abatement program, all of the following certifications of eligibility must be made in writing:

- (1) The assessors must certify that more than 50 percent of the parcel's assessed value is residential.
- (2) The building inspector (or other municipal official designated in the municipality's request for abatement authority) must certify that the property:

- is abandoned,
- has six or fewer residential units, and
- has some portion of the structure above ground level.

2. Abatement Applications

a. Eligible Applicants

The person or entity that will be the new owner and developer of the parcel must apply for the abatement under the expedited abatement program and must meet the same standards that apply to purchasers of tax possession property under G.L. Ch. 60 §77B. This means the applicant cannot be delinquent on property taxes, or have had any arson or insurance fraud convictions, and must submit an affidavit of compliance with these standards at the time of application.

(1) Payments to Acquire Title

In order to prevent unjust enrichment at the expense of municipal taxpayers, owners, mortgagees and others with interests subordinate to the municipality's lien or tax title may not receive more than minimal amounts in return for surrendering or conveying their interests in the property to the applicant. Minimal amounts cannot exceed \$1,000 for any party.

(2) Approval Pending Acquisition

Assessors may make a legally binding commitment to an applicant to grant the abatement upon the applicant's acquisition of the property in compliance with the terms and conditions of the application and assessors' commitment. Assessors may not process any abatement, however, until the applicant has acquired the property.

(3) Payment of Unabated Taxes

The applicant must pay the amount of taxes, interest and collection costs that will remain outstanding in order to receive the abatement. Assessors may not process any abatement until the applicant has fully paid this balance.

b. Application Content

Applications must include the applicant's plans for rehabilitating the property into six or fewer residential units, together with a statement of how the abatement will benefit the municipality.

c. Application Hearing

Applicants must have a right to an informal hearing on their applications, and a right to petition for a rehearing if their application is denied.

3. Abatement Limitations

a. Parcels

A community development corporation as defined in G.L. Ch. 40F, or any other non-profit business entity acting as the developer, can receive abatements under the expedited abatement program to rehabilitate an unlimited number of dwelling units.

A for-profit developer, however, is limited to receiving abatements for the rehabilitation of not more than 15 residential units in any fiscal year. This limit applies to all properties in which the developer has any beneficial or equitable interest, regardless of the number of parcels involved. For profit applicants for abatement must submit affidavits certifying their compliance with this restriction.

b. Amount

In order to avoid a subsidy to the applicant by the municipality, an abatement granted under the expedited abatement program should not reduce the outstanding tax liability below the fair market value of the parcel, net of acquisition costs. *Acquisition costs* for expedited abatement program purposes are defined as (1) payments made to owners to acquire title (See Section B-2-a-(1) above) and (2) actual foreclosure costs if an applicant who cannot get deeds from one or more owners must foreclose an assigned mortgage to eliminate those owners' interests.

Assessors must inspect each parcel for which an abatement is sought under the expedited abatement program and then reapply their valuation schedules or models to determine the fair cash value of the parcel in its abandoned condition. Any abatement granted under the program may not reduce the sum of (1) any acquisition costs, and (2) the unabated tax liability to less than 90% of this determination of fair market value.

EXAMPLE

A parcel of abandoned residential property is subject to a tax title in the amount of \$100,000 and has an estimated fair cash value of \$50,000 for expedited abatement program purposes. The applicant has acquisition costs of \$2,000.

The formula for calculating the maximum abatement is:

1.	Total outstanding		\$100,000
2.	<i>Subtract</i> Fair cash value (\$50,000) x .90	-	45,000
3.	<i>Add</i> Acquisition costs	+	2,000
4.	Maximum abatement	=	\$ 57,000

4. Program Audit

A municipality exercising expedited abatement authority must include in its contract for an annual outside audit a requirement for an audit of its compliance with its approved expedited abatement program.

The audit must include a comparison for each parcel of the unabated balance of taxes, interest and charges with the value of the property determined by the use of the assessors' valuation model. See Section B-3-b above. The municipality's audit firm may make the comparisons itself, or it may subcontract that responsibility to an appraiser or appraisal firm of its choosing that has experience in mass appraisal.

5. Reporting Requirements

The municipality must include a separate expedited abatement report with its annual audit to the Bureau of Accounts each year. The report must include:

- A copy of the section of the audit dealing with the expedited abatement program, and
- A summary by the assessors of all abatements granted for the fiscal year covered by the audit. The assessors' summary must include the following information for each parcel:
 - Assessed owner(s).
 - Name and address of the applicant/new owner.
 - Street address and the assessors' map/lot designation for the parcel.
 - Number of residential units before and after rehabilitation.
 - Assessed value for the most recent fiscal year before the application for abatement.
 - Fair market value of the property estimated for expedited abatement program purposes (See Section B-3-b above).
 - Amount due before the abatement, broken down by fiscal year and by taxes, interest and collection costs.
 - Total amount abated.

C. EXERCISE OF DELEGATED ABATEMENT AUTHORITY

1. Time Period

Delegations of abatement authority will be valid for a period of two years from the date granted.

2. Recordkeeping

Assessors must retain the Commissioner's delegation of authority and each developer's application and all supporting documentation, for the minimum period required under the Assessors' Records Disposal Schedule issued by the state Supervisor of Public Records for G.L. Ch. 58 §8 abatement documents.

The records for individual abatements granted should cite "Expedited G.L. Ch. 58 §8" as the authority under which the abatement is granted. In addition, every abatement granted must be accompanied by a written statement by the assessors certifying under pains and penalties of perjury that the procedures approved by the Commissioner for granting the abatements have been followed.